

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE**

**STATE OF KANSAS  
DEPARTMENT OF CORRECTIONS**

**AND THE**

**FRATERNAL ORDER OF POLICE  
LODGE NO. 64**

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## **ARTICLE 1**

### **PREAMBLE**

**SECTION 1.** This agreement is entered into by and between the State of Kansas and the Kansas Department of Corrections, (Employer, Management or Department), and the Fraternal Order of Police, Lodge No. 64 (Lodge or the Union).

**SECTION 2.** The Lodge and the Employer agree that the purpose and intent of this agreement is to contribute to the development of harmonious and cooperative relationships between Employer and its Employees, to recognize mutual interests and to reduce to a minimum the causes of Employee relations disputes.

**SECTION 3.** The Employer and the Lodge recognize that the public interest requires adherence to the highest standards of Employee performance through the continuing development and implementation of progressive work practices that facilitate continuous improvement in Employee performance and efficiency.

## **ARTICLE 2**

### **RECOGNITION**

**SECTION 1.** The Employer recognizes the Fraternal Order of Police Lodge No. 64 as the certified representative for the Unit, found appropriate and certified on the 21st of February, 2008, by the Public Employee Relations Board in case number 75-UC-1-2008.

**SECTION 2.** Employees included in the appropriate Unit shall be those persons employed in the following classes or performing the essential functions of those classifications regardless of title and shall also include any successor job classes in which the work of the following job classes is performed:

Parole Officer I

Parole Officer II

**SECTION 3.** Employees excluded from the appropriate Unit shall be all supervisory, administrative, confidential, original probation and temporary Employees, elected and management officials and/or appointed Employees of the Employer as defined in K.S.A.75-4322 and amendments, and all classifications not specifically included in section 2 above. Disputes regarding Unit inclusion or exclusion shall be submitted to the Public Employee Relations Board for resolution.

**ARTICLE 3**  
**NON-DISCRIMINATION**

**SECTION 1.** It is the policy of the State to prohibit discrimination in employment against any employee or applicant for employment because of race, color, gender, sexual orientation, gender identity, religion, national origin, ancestry, age, military or veteran status, disability status or, for classified employees, political affiliation and to promote and implement a positive and continuing program of equal employment opportunity. Unclassified employees in the bargaining units in non-policymaking and/or non-confidential position will not be subject to discrimination based on political affiliation. It is the policy of the Lodge that it shall not discriminate against any employee because of race, color, gender, sexual orientation, gender identity, religion, national origin, ancestry, age, military or veteran status, disability status or political affiliation. Within individual agencies or facilities the State will endeavor to apply personnel policies, procedures and regulations consistently in similar circumstances to similarly situated employees. However, the MOA shall be applied consistently. Reasonable accommodations made to employees determined by the Employer to be qualified individuals with a disability shall not serve as precedent for other employees.

**SECTION 2.** There shall be no reprisal, admonition, reprimand or other adverse action taken against Employees for their role in the meet and confer process, grievance procedure or other proceeding as set forth in this agreement.

**SECTION 3.** The Employer and the Lodge further agree that neither party will discriminate against, interfere with, restrain or coerce Employees in the exercise of their right to become or not to become members of the Union.

**ARTICLE 4**  
**NO STRIKE OR LOCK OUT**

**SECTION 1.** The Lodge agrees that during the life of this Agreement, neither the organization, its agents, nor its appropriate Unit members will authorize, instigate, aid or engage in any organized work stoppage, organized slow-down, organized sick-out, illegal picket or organized strike against the Employer.

**SECTION 2.** The Employer agrees not to lock out any Employees during the term of the Agreement as a result of a labor dispute with the Lodge.

**ARTICLE 5**  
**MANAGEMENT RIGHTS**

This Agreement is not intended to circumscribe or modify the existing right of the Employer to direct the work of its Employees; hire, promote, demote, transfer, assign and retain Employees in positions with the Employer; suspend or discharge Employees for just cause; maintain the efficiency of Governmental operations; relieve Employees from duties for lack of work or for other legitimate reasons; take such actions as may be necessary to carry out the mission of the agency in emergencies; and to determine the methods, means and personnel by which operations are to be carried on.

It is further specifically agreed that the foregoing enumeration of the rights of the Employer shall not be determined to exclude other rights not specifically enumerated unless abridged and modified by provisions included within this Agreement. It is also understood there may be other inherent rights of Management which may be exercised during the term of this Agreement.

Further, this Memorandum of Agreement is not intended to supersede any subject covered by federal or state law.

**ARTICLE 6**  
**EMPLOYEE RIGHTS**

**SECTION 1. INHERENT RIGHTS**

Nothing contained in this agreement shall be construed to limit or deny Employees any rights to which they are entitled as citizens of the United States or the State of Kansas.

**SECTION 2. PERSONAL LIVES**

Employees in this Unit are accountable for the performance of official duties and for compliance with standards of conduct for Law Enforcement Employees of the State of Kansas. Assuming adherence to these standards, Employees in this Unit shall have the right to conduct their private lives as they deem fit and further provided such conduct does not present a conflict with laws, regulations or policies of the Employer adopted thereunder. Employees shall, whether on duty or off duty, avoid conduct, which would be likely to bring criticism upon themselves or the Department.

- 2.1 With respect to the Department of Corrections policy, the subject of which is Conflict of Interest and Other Employment, Section 4 below will control.



- 2.2 Any future Department of Corrections Policy that would impact the personal lives of Unit Employees and represents a conflict with the provisions in this article will be resolved in favor of this memorandum of agreement.

### **SECTION 3. REPRESENTATION**

Employees in this Unit may be represented by a person of their choice as provided in and consistent with Article 7, Lodge Rights; Article 9, Discipline; Article 11, Personnel Record; Article 35, Grievance Procedure; and Article 36, Lodge Steward System. The above representation, however, does not extend to persons who hold themselves out as a representative of any other Employee organization.

### **SECTION 4. OFF-DUTY EMPLOYMENT**

Employees shall adhere to the Department of Corrections policy regarding off-duty employment. Should the Employer decide to alter the existing policy, the employer shall negotiate over such changes that would affect members of Bargaining Unit 17 before they are implemented.

### **SECTION 5. CITIZEN COMPLAINTS AGAINST EMPLOYEES**

The procedures outlined within this section shall be used by the Employer to investigate and resolve citizen complaints against Employees in this Unit. This procedure is designed to formally define the complaint; identify the source of the complaint when possible; assess all significant facts related to the incident; and to take the appropriate and timely action to resolve the complaint. Component parts of this procedure include, but are not limited to:

- 5.1 Complaints against Employees by a citizen may be reported in person, by telephone or in writing and each complaint will be investigated and resolved, with a response to the citizen who initiated the complaint, whenever possible. If the complaint is received in person, or by telephone, the employee who receives the complaint should provide a written summary of the conversation to serve as the official document for initiating an investigation and resolution.
- 5.2 The complaint shall be forwarded to the Employee's immediate supervisor for review and to initiate the investigation. A copy of the complaint shall be provided to the Employee by the supervisor once it is received. No disciplinary action shall be proposed or taken until the employee has been given an opportunity to respond to the complaint as described in Section 5.3 below.

- 5.3 Following notification of the complaint and receipt of a copy of the complaint investigation documents, the affected Employee shall prepare a description of the events leading to the complaint, and forward that report to his or her immediate supervisor. The Employee shall be allowed 3 three (3) working days from the time the Employee receives the complaint to prepare a response. This time period may be revised at the request of the employee or the supervisor to accommodate scheduled or unscheduled leave time. The Employee will be permitted to consult with an FOP representative or an attorney, at his/her own expense, prior to the submission of the response. Following the initial investigation, the immediate supervisor will make a determination of the need for further inquiry, and will forward all documentation to the appropriate Regional Director for final review and any further investigation if necessary.
- 5.4 If the complaint is found to have merit by the Regional Director, the Employee will be informed, in writing, of those findings, and provided an opportunity to discuss the findings with his or her immediate supervisor before disciplinary action is imposed. The Employee will be afforded an opportunity to have a Lodge representative, of his or her choosing, present during any questioning that could lead to disciplinary action.
- 5.4.1 If at any point in the review, the complaint is found to be unsubstantiated, a written notice will be provided to the Employee, the Lodge, the complainant and the immediate supervisor indicating that the complaint is resolved and no finding of fault on the Employee.
- 5.4.2 If there is a finding of fault on the Employee's part, corrective action shall be taken in accordance with Article 9 of this Memorandum of Agreement.

## **ARTICLE 7**

### **LODGE RIGHTS**

#### **SECTION 1. LODGE REPRESENTATIVES**

Designated representatives of the Lodge shall be permitted to come on the premises of the Employer for the purpose of investigating and discussing grievances or alleged violations of the Memorandum of Agreement with stewards, the employer, or other employees in the appropriate unit they represent. The Lodge will provide a list of designated representatives to the Employer and will be responsible for updating such lists as necessary. Contacts by the Lodge representatives with employees concerning matters other than grievances or alleged violations of the Memorandum of Agreement will be accomplished during the employees' non-duty time.

- 1.1 Authorization to come on the employer's premises for the purpose of investigating and discussing alleged violations of the agreement shall not be unreasonably denied. These visits, however, shall not interfere with or disrupt the scheduled work of the employees and should only occur with prior approval of the Appointing Authority or his/her designee.
- 1.2 The Lodge shall ensure the employer has a current list of representatives accredited by the Lodge. KDOC contact information shall be provided to the Lodge upon request. KDOC maintains a current list of contacts on the public internet website located at <http://www.dc.state.ks.us/>. Management titles relevant to this MOA are as follows:

Deputy Secretary of Community and Field Services

Regional Parole Director, Northern/Southern Parole Region

R3 Director, Northern/Southern Parole Region

Re-entry Director, Shawnee/Wyandotte County

Human Resources Director/KDOC

## **SECTION 2. BULLETIN BOARDS**

The Employer shall make available at no cost to the Lodge a reasonable portion of existing bulletin boards in regional offices, and shall allow an electronic bulletin board on the agency server for use by the Lodge for posting notices as described below.

- 2.1 Notices of meetings and notices of election of Lodge officials may be posted on the designated bulletin boards after being initialed by an officer of the Lodge.
- 2.2 The Lodge agrees to ensure that all notices are in good taste. The Lodge shall ensure that items are not illegal, defamatory, political, or partisan and that no item is detrimental to the safety and security of the office. Notices shall not contain anything that would reflect unfavorably upon the Governor, any agency or its representatives, or any other state employee or legislator. Where parties agree, the Lodge may purchase and install bulletin boards.
- 2.3 The Lodge also agrees that it will remove all posted Lodge notices on a timely basis once the notices have served their purpose.

- 2.4 The Employer shall allow employees with email capability to receive Lodge informational material that may also be posted on bulletin boards. All emails from the Lodge shall contain a disclaimer, which shall instruct the employees not to respond to emails from the Lodge while at work. The disclaimer shall also contain a method by which employees may respond while off-duty if they have questions about the information in the email.

### **SECTION 3. RIGHT TO INFORMATION**

The Employer shall provide to the Lodge requested information as established by the Kansas Open Records Act. Upon request from the Lodge and not to exceed four (4) requests per calendar year, the employer shall provide to the Lodge on a timely basis, an accurate and alphabetical list of all unit employee names and their home and work addresses. The Employer may require advance payment of a prescribed fee in accordance with K.S.A. 45-219 and amendments.

### **SECTION 4. NEW HIRE INFORMATION**

The Employer shall provide an orientation program to new employees. New employees in the appropriate unit shall be told that they are represented by the Fraternal Order of Police, Lodge No. 64 and shall be given current contact information. Employees shall be informed that a copy of the MOA is available on the KDOC intranet and internet websites for review.

### **SECTION 5. LODGE REPRESENTATION AT MEETINGS**

At least one (1) designated Lodge representative may be approved for Lodge Leave to attend two Northern and two Southern Parole Regional meetings annually and will be allotted fifteen (15) minutes during the meeting to discuss Lodge membership and participation. A second designated Lodge representative may be allowed to attend based on operational needs. Lodge representatives may meet with employees during break periods and before and/or after the meeting. Regional Directors shall notify employees of upcoming meeting dates at least 60 days prior to the meeting. The Lodge shall coordinate meeting attendance with the Regional Director at least thirty (30) days prior to the regional meeting.

## **ARTICLE 8**

### **HOURS OF WORK AND OVERTIME**

#### **SECTION 1. WORKWEEK**

- 1.1 The workweek shall be a period of 40 hours a week. The workweek will begin at 12:01 a.m. Sunday, and end at 12:00 a.m. the following Sunday.
- 1.2 Regular scheduled hours for Employees of this Unit will normally be Monday through Friday of each week. Hours of operation of the parole offices may be

from 6:00 a.m. to 7:30 p.m. Employees' normally scheduled hours will be from 8:00 am through 5:00 p.m. with some evening hours required but no more than twice per month per employee. Employees will normally be assigned to specific hours of work on their scheduled work days by the immediate supervisor.

- 1.3 Flex-time in scheduling may be utilized with prior approval from the Employee's immediate supervisor. Employees shall be scheduled for two (2) consecutive days off each week, normally Saturday and Sunday. In the event that an employee is unable to work two (2) scheduled late nights per month, he or she may find a replacement to work those hours with approval of his or her immediate supervisor. In the event that an employee is unable to work evening hours, he or she may opt to come in early with approval of his or her immediate supervisor.
- 1.4 Approval to modify the scheduled days off may be obtained from the Employee's immediate supervisor. Once scheduled, a day off may be changed only as mutually agreed by the Employee and his or her supervisor, or in emergency situations. To the extent deemed practical, the supervisor will make every effort to call a primary or secondary backup.

## **SECTION 2. OVERTIME**

Overtime is defined as all hours worked which exceed forty (40) in a workweek and shall be compensated at the rate of one and one half (1½) hours for one (1) hour worked. Overtime must be approved in advance by the Employee's immediate supervisor unless the Employee determines that he or she must make the decision to work the overtime for justifiable emergency situations as detailed below.

2.1 A serious in-progress corrections-related violation, or violation involving destruction of Kansas Department of Corrections property, and the damaging of Kansas Department of Corrections property may result in substantial loss. An expectation that a lengthy delay in response would result in destruction or disappearance of criminal evidence must exist to constitute an emergency.

2.2 An incident that involves a legitimate threat to life, or in which someone is deceased, or missing and believed to be deceased.

2.3 An accident involving death or life-threatening injury to a person, and which has just occurred or has just been reported.

2.4 A request to respond to a situation posing an immediate threat to human life or safety.

2.5 Involvement in the issuance of an arrest and detain order due to emergency circumstances.

2.6 Employees may accumulate overtime without prior approval in the above emergency situations only after attempting to adhere to all of the following stipulations.

2.6.1 Emergency overtime should only be accumulated on or after the last scheduled work day of the week.

2.6.2 If reasonably possible, Employees are to attempt to contact their immediate supervisor, or the next level supervisor in the chain of command before incurring overtime. If contact with a superior is not reasonably possible before the officer responds to the emergency situation, the officer shall, as soon as practicable, contact his or her immediate supervisor or the next level superior for guidance on the duration of the overtime which can be approved.

2.7 The Employee will prepare a written report attesting to the above stipulations and describing the emergency, and will provide a copy of the report to the immediate supervisor within five (5) working days of the emergency overtime. Copies of these reports will also be kept on file by the Employee and the immediate supervisor.

2.8 Except as provided in Section 4.2 below, payments for overtime will be made at the same time the Employee is paid for the hours worked at the straight time rate for the period in which the overtime was worked.

### **SECTION 3. COMPENSATORY TIME IN LIEU OF OVERTIME**

3.1 Any work time accumulated within the current workweek, prior to the last day of the workweek, that could result in overtime may be required, at the Employer's discretion, to be taken as equivalent time off on an hour-for-hour basis within the same workweek in which it was worked.

3.2 In lieu of paying an eligible Employee at the time and a half rate for overtime worked outside the current workweek, the Employer may (consistent with individual compensatory time agreements) elect to compensate an Employee for overtime worked by granting compensatory time off, at the rate of one and a half (1½) hours off for each hour of overtime worked. An updated compensatory time accrual balance shall appear on the paycheck/advise summary when the Employee would have otherwise been paid for the overtime worked.

3.3 Requests to use earned compensatory time must be submitted to the Employee's immediate supervisor for approval prior to use and shall be approved provided the Employee gives the supervisor reasonable notice of the intention to use compensatory time and the Employee's use of this time does not unduly disrupt operations of the office.

#### **SECTION 4. PAY FOR COMPENSATORY TIME**

Except as noted below, any Employee who has accrued forty (40) hours of compensatory time off shall, for any additional overtime hours of work, be paid overtime compensation for that payroll period. The Employee shall make every reasonable effort to utilize compensatory hours prior to reaching the total of forty (40) hours of accrued compensatory hours. The Appointing Authority may approve a higher maximum, provided that the maximum shall not exceed eighty (80) hours. An Employee who has accrued eighty (80) hours of compensatory time off shall, for any additional overtime hours of work, be paid overtime compensation for that pay period.

#### **SECTION 5. MANAGEMENT OF COMPENSATORY TIME**

Due to operational needs the Employer may pay, manage, and require the use of compensatory time. The Employer may schedule an officer to use any blocks of compensatory time above forty (40) hours not used within six (6) months of the date in which it was earned, with the exception that the Employee may retain up to a maximum of forty (40) hours of all forms of compensatory time. The Employer also reserves the right to pay for some or all of the Employee's accrued compensatory time as the availability of funding permits.

### **ARTICLE 9**

#### **DISCIPLINE**

##### **SECTION 1. DISCIPLINARY ACTIONS: DEFINITIONS AND APPLICATIONS**

- 1.1 This article applies to employees assigned to classifications in the bargaining unit who have completed original probation. Original probation for employees assigned to this unit is one year. All disciplinary actions shall be administered in accordance with applicable statutes and regulations and this MOA.
- 1.2 The primary purpose of discipline is to correct performance or behavior that is below acceptable standards, or contrary to the employer's legitimate interests, in a constructive manner that promotes employee responsibility. If the employer has reason to discipline an employee, it shall normally be done privately, and in a manner that will not embarrass the employee before other employees, offenders, clients or the public.
- 1.3 Disciplinary actions shall be administered by the employee's Appointing Authority and/or designee. The designee is defined as the first level supervisor and/or team leader. The employee shall be informed as to who his/her supervisor is at the time of new employee orientation, and when supervision changes as the result of normal business operations.
- 1.4 Informal disciplinary actions are defined as verbal counseling, written counseling and written reprimand.

- 1.5 Formal disciplinary actions are defined as suspension, demotion and dismissal.
- 1.6 Agencies may utilize alternative methods to resolve conflicts or improper employee performance or behavior whenever appropriate. Examples of alternative method include, but are not limited to: facilitation, mediation, required counseling utilizing the employer contracted Employee Assistance Program.
- 1.7 For disciplinary purposes, the Employer may suspend an employee without pay for a period not to exceed thirty (30) days unless a longer period is authorized by an order of the Kansas Civil Service Board.
- 1.8 No employee shall be informally or formally disciplined for political, religious, racial, or other non-merit reasons except where there is a sufficient relationship to employment and as consistent with applicable laws and regulations.

## **SECTION 2. LODGE REPRESENTATION**

- 2.1 The employee may request a Lodge representative at formal disciplinary meetings. The following shall apply:
  - 2.1.1 The normal operations of the Employer shall not be interrupted by a Lodge representative's attendance at formal disciplinary meetings. Attendance of the Lodge representative shall not interfere with the legitimate needs of the Employer to maintain the operational integrity of the department.
  - 2.1.2 In the event a Lodge representative may not be released from duty, the Employee shall be granted a recess of one working day to make arrangements for another representative to attend. Lack of representation shall not be the basis for more than one (1) delay in a formal disciplinary meeting. In the event that the Lodge representation is not available at the time of the formal disciplinary meeting, the employee shall be granted time to meet with Lodge representation after the meeting and may provide any additional information in writing for the Employer to consider before imposing final disciplinary action.
  - 2.1.3 An off duty Lodge representative shall not be compensated in overtime or compensatory time for time spent attending a formal disciplinary meeting. An on-duty Lodge representative shall be paid for time attending a disciplinary meeting, however this time shall not be counted for overtime purposes.
  - 2.1.4 An employee serving as a Lodge representative who is a witness or in any way involved in the subject of the formal discipline shall be disqualified from serving as an employee's Lodge representative during the formal disciplinary hearing.



- 2.2 An employee may request a meeting with the Employer within three working days after receiving a written reprimand to discuss the same. The employee may be represented by a Lodge representative at this meeting.

### **SECTION 3. ADMINISTRATION OF DISCIPLINARY ACTIONS**

- 3.1 The supervisor may administer corrective action through the use of informal disciplinary action. The conversation or documentation shall include, but is not limited to the following:
- a) Specific examples of the employee infraction or poor performance;
  - b) Relevant dates and times of infraction or poor performance;
  - c) Corrective action plan;
  - d) Notification of appointing authority regarding informal disciplinary action.
- 3.2 Formal disciplinary action, meaning suspension, demotion or dismissal, shall be proposed only after an investigation to determine the facts of a particular situation. The employee shall be interviewed or asked to provide a narrative as a part of the investigation. The employee will be provided with written notice of any proposed formal disciplinary action involving suspension, demotion or dismissal, and given an opportunity to appear before the appointing authority prior to the time that a final decision is made by the appointing authority on the final disciplinary action.
- 3.3 Formal disciplinary letters shall be included in the employees personnel file and the employee shall have full access to that file. Upon request, and at no cost, the Employee may obtain a copy of the personnel file and other documents in the possession of the Agency that the Employer is relying on to support the disciplinary action in order to prepare a response to the appointing authority or designee in an appeal of a final action. Criminal investigation records and reports of conversations with confidential informants shall be excluded from the employment record, but shall be made available to the employee or representative either voluntarily or through the discovery process if the Employer is relying on such records and statements to support the disciplinary action.
- 3.4 A letter of proposed formal disciplinary action for permanent employees shall contain the following:
- a) Statement of the proposed disciplinary action to include specifically the action to be taken and the date thereof;
  - b) Statute or regulation under which the proposed disciplinary action is being proposed;
  - c) Specific reason(s) the disciplinary action is being proposed, including the offense and a summary of the facts and evidence;

- d) Notice that the employee may respond to the proposed disciplinary action orally or in writing, or both, and that the employee may be represented by a Lodge or other personal representative;
- e) Date, time and place the employee may meet with the appointing authority to respond to the proposed disciplinary action. This meeting shall take place at least one day prior to the effective date of the proposed action; and
- f) Statement of the employee's status during the notice period until the matter is resolved.

3.5 The appointing authority and/or designee shall be available for a meeting with the employee in which the employee may respond to the proposed disciplinary action.

3.5.1 During the opportunity to appear meeting with the appointing authority, the employee and/or the Lodge representative may present supporting arguments on the employee's behalf, including arguments in favor of the reduction of any proposed formal discipline involving suspension, demotion or dismissal, as well as offering information or arguments in mitigation of the proposed formal discipline.

3.5.2 The appointing authority or designee shall consider the employee's response before making a final determination on the discipline.

3.6 Following the meeting, the appointing authority or designee shall notify the employee of the final determination of the disciplinary action. The letter shall include a statement of the employees:

- a) Right to appeal the final decision; and
- b) Right to Lodge representation; and
- c) Applicable deadline for filing an appeal to the Kansas Civil Service Board.

3.7 Any permanent employee who has been informally or formally disciplined may appeal as follows:

3.7.1 Informal disciplinary action may be appealed through Article 32–Grievance Procedure, but shall not be subject to the arbitration provision.

3.7.2 Formal disciplinary action may be appealed through a request for a hearing from the State Civil Service Board to determine the reasonableness of such action. Each such request for a hearing shall be in writing and shall be filed in the office of the director of personnel services within thirty (30) calendar days after the effective date of the dismissal, demotion or suspension. Additional days shall not be added to the thirty-day (30) period in which an appeal may be filed if the notice of the effective date of the

dismissal, demotion or suspension is mailed to the employee by certified U.S. postal service mail services or receipt requested email.

- 3.8 Formal and informal disciplinary letters of reprimand shall be included in the employee's employment file and a copy will be provided to the Fraternal Order of Police upon written request of the employee.

## **ARTICLE 10**

### **LENGTH OF SERVICE**

**SECTION 1.** Length of Service shall mean total time worked in the classified service or unclassified service, including time spent on an appointment to a position pursuant to K.S.A. 75-2935(1)(i), and amendments thereto. Length of service shall exclude:

- 1.1 Time worked as a temporary employee in accordance with the provisions of K.A.R. 1-6-25;
- 1.2 Time worked as a student employed by any board of regents institution;
- 1.3 Time worked as a resident worker in any social and rehabilitation services institution as defined in K.S.A. 76-12a01 or in a state veterans home operated by the Kansas commission on veterans affairs;
- 1.4 Time worked as an inmate.

**SECTION 2.** Time spent on military leave, or time off while receiving workers' compensation wage replacement for loss of work time, shall be considered to be time worked in the classified or unclassified service. Time on leave while receiving workers compensation wage replacement for a disability attributable to state employment before May 1, 1983 shall not be credited.

**SECTION 3.** An Employee's length of service shall be interrupted during any period of time the Employee is on approved leave of absence without pay in excess of thirty (30) days and seniority shall resume when the Employee properly returns to permanent employment at the end of such leave.

**SECTION 4.** Ties in length of service shall be broken by applying the following factors in the order listed until the tie is resolved:

- 4.1 Total time employed by the State of Kansas in any type of appointment
- 4.2 Total time employed in a similar position by any other Employer.

## **ARTICLE 11**

### **PERSONNEL RECORD**

**SECTION 1.** The Department of Corrections shall maintain an official personnel record for each Employee in the appropriate Unit in the Human Resources office. As provided in K.A.R. 1-13-1(a), the official personnel record shall contain the following:

- 1.1 Documents showing Employee's hires, transfers, promotions, demotions, separations, changes of pay rates, leaves of absence or other changes in employment status;
- 1.2 Application for each position for which the employee was hired; (formerly 1.3)
- 1.3 Performance reviews and letters of commendation;
- 1.4 Letters of reprimand and letters of rebuttal thereto;
- 1.5 Letters of formal disciplinary action; and
- 1.6 Such other information related to state service that the appointing authority deems appropriate.

**SECTION 2.** Any Employee may request that material pertinent to his or her employment be placed in his or her official personnel record.

**SECTION 3.** An Employee may review his or her official personnel record. An Employee may also authorize any individual, individual legal representative or designated Lodge representative, to review the Employee's official personnel record. Such requests for authorization shall be in writing and shall be delivered to the Director of Human Resources of the Department of Corrections. Reviews shall be made consistent with the conditions established by the Department of Corrections and at a time mutually convenient to the parties. Copies shall be made upon request, and the cost shall be paid by the individual or representative at the rate established by the Employer, or waived at the discretion of the Employer.

**SECTION 4.** If an Employee's review of his or her personnel record reveals any documents which the Employee feels are detrimental to his or her record, the Employee shall have the right to challenge the inclusion of a document by writing to the appointing authority and requesting that a document or documents be removed from the file. If the request is not granted informally, the employee may seek resolution through the grievance procedure contained in this agreement. Additionally, the Employee may submit a request to the appointing authority that documents related to disciplinary actions over one year old be removed from the Employee's file and the reasons therefore.

**SECTION 5.** Employees shall be provided with either a copy of any document of a disciplinary or adverse nature placed into his or her personnel record, or the Employee shall be sent the original document with a copy to the official personnel record.

**SECTION 6.** When documents placed into the personnel record are based in part upon information provided by an individual, who will not agree to be identified, the information must otherwise be documented by a named individual, or the material will be removed from the personnel record.

**SECTION 7.** Except as otherwise provided in this section, and the Kansas Open Records Act, K.S.A. 45-215 *et. seq.*, information contained in each state Employee's official personnel record shall not be open to public inspection.

**SECTION 8.** Upon inquiry of an individual, the Division of Personnel Services or personnel in the Department of Corrections, shall disclose the following information concerning an Employee:

- a) the name of the Employee;
- b) the Employee's current job title;
- c) the Employee's current or prior rates of pay; and
- d) the Employee's length of employment with the state.

**SECTION 9.** Upon inquiry of a prospective Employer, the Division of Personnel Services, or the Department of Corrections, may disclose the following additional information concerning an Employee:

- a) the name of employing state agency;
- b) the length of time the Employee has served in the Employee's current job position;
- c) any letters of commendation;

**SECTION 10.** Upon written request of the employee, the Employer may disclose any documents regarding personal conduct and work performance to the extent consistent with K.S.A. 44-117.

**SECTION 11.** When individuals from the following agencies, in carrying forth their official duties, establish a need for information contained in an Employee's official personnel record, the Department of Corrections shall permit access to information by personnel from the following agencies:

- a) the Kansas Department of Administration;
- b) the Kansas Attorney General's office, including the Kansas Bureau of Investigation;

- c) the federal Equal Employment Opportunity Commission and Kansas Human Rights Commission;
- d) the Kansas Civil Service Board;
- e) the Legislative Post Audit;
- f) the Child Support Enforcement Specialists of the Kansas Department of Social and Rehabilitation Services.

**SECTION 12.** Access to information in an Employee's official personnel record shall also be permitted to individuals in the Department of Corrections carrying out their official duties.

**SECTION 13.** Upon request to the appointing authority in the Department of Corrections or the Director of the Division of Personnel Services, the head of any state agency or a designee, having a proper interest and an established need to review the personnel record of an Employee in another state agency or the Division of Personnel Services, may review the Employee's official personnel record, including applications for employment and performance reviews, whether the personnel record is maintained in a state agency or in the Division of Personnel Services.

**SECTION 14.** The official personnel record of any specifically named Employee shall be made available for inspection in connection with litigation pursuant to the terms of an order entered by a judge of any federal, state or municipal court properly having jurisdiction over such litigation.

## **ARTICLE 12**

### **EMPLOYEE ASSISTANCE PROGRAM**

**SECTION 1.** The Employer agrees to participate in the State of Kansas Employee Assistance Program, which provides Employees and their families the opportunity to receive confidential professional help in resolving health or personal problems.

**SECTION 2.** Sick leave, vacation leave or leave without pay may be granted to enable the Employee to participate in an Employee Assistance Program referral. In addition, if a controlling statute or regulation is amended in the future to allow Employees to take paid leave to participate in an Employee Assistance Program referral, the Employees in this Unit will be granted the same privilege.

**SECTION 3.** The Employer, through each of its organizational levels and departments, shall strictly maintain the confidentiality of the information provided by Employee participants in accordance with applicable federal and state laws and regulations. The Employer shall take all reasonable steps to ensure that knowledge of an Employee's participation in the program shall remain confidential.

## **ARTICLE 13**

### **HOLIDAYS**

**SECTION 1.** Employees in the appropriate unit shall have the following legal holidays with pay:

New Year's Day	Veteran's Day
Martin Luther King Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

In addition to the above holidays, such other days as may be designated as holidays by the Governor as days on which state offices will be closed shall be considered legal holidays with pay for Employees in the Unit.

**SECTION 2.** When one of the legal holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday. When one of the legal holidays falls on a Sunday, the following Monday shall be the officially observed holiday.

**SECTION 3.** Employees in the Unit who are required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to the employee's regular pay for the pay period. "Holiday compensation" means either pay or holiday compensatory time at a time and a half rate for those hours worked on a holiday. The appointing authority shall determine whether the compensation for this holiday work will be in the form of pay or holiday compensatory time.

**SECTION 4.** Employees who are called out on a holiday shall be compensated in accordance with Section 3 of this Article for all hours worked.

**SECTION 5.** When one of the legal or officially observed holidays falls during an Employee's vacation such holiday shall not be counted as a day of vacation.

**SECTION 6.** Each full-time Employee shall receive holiday credit equal to the number of hours regularly scheduled to work. Each full-time Employee who works a nonstandard workweek shall receive the same number of holidays in a calendar year as Employees whose regular work schedule is Monday through Friday. "Holiday credit" means pay or credit for paid time off at a straight-time rate.

**SECTION 7.** A Discretionary Holiday may also be designated by the Governor. If so designated, eligible full-time Employees shall receive the number of hours of pay at the straight time rate equal to the number of hours that the Employee is regularly scheduled to work in accordance with K.A.R. 1-9-2 and administrative guidelines as provided by the Secretary of Administration.

**ARTICLE 14**  
**VACATION LEAVE**

**SECTION 1. VACATION LEAVE**

Each classified employee in a regular position shall be entitled to vacation with pay, which shall be earned and accumulated in accordance with this section. Vacation leave earned each payroll period, the maximum amount of vacation leave that may be accumulated, and the increments in which vacation leave may be used shall be determined as follows. Each nonexempt employee shall accrue vacation leave in accordance with the following table.

1.1 Vacation Leave Table for Non-Exempt Employees Hours

Earned Per Pay Period Based on Length of Service

<u>Hours in Pay Status Per Pay Period</u>	<u>Less Than 5 Years</u>	<u>5 Years &amp; Less Than 10 Years</u>	<u>10 Years &amp; Less Than 15 Years</u>	<u>15 Years &amp; Over</u>
<u>0-7</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>8-15</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>0.7</u>
<u>16-23</u>	<u>0.8</u>	<u>1.0</u>	<u>1.2</u>	<u>1.4</u>
<u>24-31</u>	<u>1.2</u>	<u>1.5</u>	<u>1.8</u>	<u>2.1</u>
<u>32-39</u>	<u>1.6</u>	<u>2.0</u>	<u>2.4</u>	<u>2.8</u>
<u>40-47</u>	<u>2.0</u>	<u>2.5</u>	<u>3.0</u>	<u>3.5</u>
<u>48-55</u>	<u>2.4</u>	<u>3.0</u>	<u>3.6</u>	<u>4.2</u>
<u>56-63</u>	<u>2.8</u>	<u>3.5</u>	<u>4.2</u>	<u>4.9</u>
<u>64-71</u>	<u>3.2</u>	<u>4.0</u>	<u>4.8</u>	<u>5.6</u>



<u>72-79</u>	<u>3.6</u>	<u>4.5</u>	<u>5.4</u>	<u>6.3</u>
<u>80-</u>	<u>3.7</u>	<u>4.7</u>	<u>5.6</u>	<u>6.5</u>
<u>Maximum Accumulation of Hours</u>	<u>144.0</u>	<u>176.0</u>	<u>208.0</u>	<u>240.0</u>

- 1.2 Nonexempt employees in the bargaining unit shall use vacation leave only in increments of a quarter of an hour. For purposes of this section, hours in pay status shall include time off while receiving workers compensation wage replacement for loss of work time.
- 1.3 At the end of the last payroll period paid in each fiscal year, up to forty 40 hours of any accrued vacation leave that exceeds an employee's maximum accumulation of hours shall be converted to sick leave. After this conversion, all remaining vacation leave over the maximum accumulation of hours shall be forfeited at the end of the last payroll period paid in that fiscal year.
- 1.4 If an employee terminates from the service, and if at the time of termination, the employee has more than the maximum accumulation of vacation leave permitted, the employee shall not be paid for any vacation leave in excess of the maximum accumulation to which that employee is entitled.
- 1.5 Increased rates of vacation leave earnings based on length of service shall be calculated in accordance with K.A.R. 1-2-46.
- 1.6 The appointing authority shall not be arbitrary in approving or rejecting vacation leave requests. The appointing authority shall not disapprove request of vacation time off so that for all practical purposes the employee is deprived of vacation rights.
- 1.7 Vacation leave earned by an employee during a pay period shall be available for use on the first day of the following pay period subject to the restrictions established herein, if the employee resigns or is otherwise separated from the service, any vacation leave earned in the pay period in which the separation occurs shall be credited to the employee, and payment for that leave shall be made to the employee as provided in K.A.R. 1-9-13.
- 1.8 If a holiday on which state offices are closed occurs during an employee's vacation, the holiday hours shall not be charged against the employee's vacation leave.

- 1.9 If an employee, or a member of the employee's family as defined in K.A.R. 1-9-5(e)(2), becomes ill while the employee is taking vacation leave and, for all intents and purposes, the employee is deprived of all or a significant portion of the vacation due to the illness, the appointing authority, upon request of the employee, may charge to sick leave some or all of the time the employee or family member was ill during the vacation. For purposes of this subsection, "illness" shall include any of the reasons for sick leave identified in K.A.R. 1-9-5(e)(1).

## ARTICLE 15

### SICK LEAVE

#### SECTION 1. SICK LEAVE ACCUMULATION

Each classified employee in a regular position shall be credited and accumulate sick leave as provided in this section. The maximum sick leave credit an employee may accrue in any payroll period shall be three point seven (3.7) hours. The amount of sick leave hours earned each payroll period and the increments in which sick leave may be used shall be determined as follows. Each non-exempt employee shall accrue sick leave in accordance with the following table:

1.1 Sick Leave Table for Employees

<u>Hours in Pay Status Per Pay Period</u>	<u>Hours Earned Per Pay Period</u>
0-7	0.0
8-15	0.4
16-23	0.8
24-31	1.2
32-39	1.6
40-47	2.0
48-55	2.4
56-63	2.8
64-71	3.2
72-79	3.6
80-	3.7

- 1.2 Sick leave earned by an employee during a pay period shall be credited to the employee, and available for use, on the first day of the following pay period. Non-exempt employees shall use sick leave only in increments of a quarter of an hour (.25).
- 1.3 For the purpose of this article, hours in pay status shall include time off while receiving workers' compensation wage replacement for loss of work time.
- 1.4 Each employee who is injured on the job and awarded workers compensation shall be permitted to use of accumulated leave upon the employee's request. The compensation for accumulated leave used each payroll period shall be that amount which, together with workers compensation, equals the regular pay for the employee. Unless the employee requests otherwise, vacation leave and compensatory time credits shall be used only after sick leave credits have been exhausted. The appointing authority shall not require the use of accumulated compensatory time credits in conjunction with workers compensation.
- 1.5 Each former employee who had unused sick leave at the time of separation, and who returns to state service in a regular position within one (1) year shall have the unused sick leave returned to the employee's credit. This provision shall not apply to a person who has retired from state service.
- 1.6 Payments for sick leave accumulated by the date of retirement, in accordance with K.S.A. 75-5517, and amendments thereto, shall be calculated using the hourly or salary rates set forth in K.A.R. 1-5-21.

## **SECTION 2. SICK LEAVE USE**

- 2.1 Use of accumulated sick leave shall be granted to employees:
  - a) For illness, medical appointment or disability of the employee;
  - b) For illness, medical appointment or disability of a member of the employee's family meaning any person related to the employee by blood, marriage, or adoption and any minor residing in the employee's residence as a result of court proceedings pursuant to the Kansas code for care of children or the Kansas juvenile offenders code;
  - c) Following the birth of the employee's child; or
  - d) When a child is placed with the employee for adoption.
- 2.3 An employee may use accumulated vacation or other paid leave when sick leave is exhausted for reasons outlined in this section.

## **SECTION 3. NOTIFICATION**

When an employee is unable to work due to circumstances provided in Section 2, the employee or employee's designee will call in accordance with established practice or policy.

- 3.1 The employee or designee must call each day of absence until the employee notifies the Employer of a date he/she will return to duty.
- 3.2 The Employer shall not ask the employee to provide information as to his/her diagnosis or condition except as permitted by applicable law. The Employer may inquire as to the anticipated length of absence.
- 3.3 An employee shall not be required or responsible for identifying coverage for the employee's shift.

#### **SECTION 4. SICK LEAVE POLICY**

- 4.1 The Employer will not unreasonably deny sick leave to employees when requested, or, for the purpose of inconveniencing the employee, require employees to provide evidence to establish that the employee is entitled to use of sick leave. It is also the policy of the State to take corrective and/or disciplinary action for unauthorized use of sick leave and/or misuse of sick leave.
- 4.2 An employee may be required to provide evidence necessary to establish that the employee is entitled to use sick leave under the following circumstances:
  - a) When the employee has consistently maintained a zero or near zero sick leave balance for a period of twelve (12) months. This provision shall not apply to employees who have previously provided documentation evidencing the need for such a relatively high sick leave utilization;
  - b) When an employee has more than ten (10) sick leave occurrences in a twelve (12) month period;
  - c) When an employee has used four (4) or more sick days in conjunction with days off or holidays during a twelve (12) month period; When the Employer needs to determine whether Family Medical Leave Act obligations apply or are implicated. The submission of such documentation and the information contained therein shall be provided in accordance with the Family Medical Leave Act;
  - d) When the Employer has a reasonable basis to believe the employee is misusing sick leave. "Misuse" is requesting the use of sick leave for purposes other than authorized by this MOA or law or regulation.
- 4.3 Prior to requiring the submission of documentation, the Employer shall counsel the employee regarding his use of sick leave. Any such requirement imposed shall not exceed six months in duration. At the conclusion of the six (6) months, the documentation requirement will be rescinded provided the employee has complied with the documentation requirement. In addition to appropriate discipline under Section 7, if the employee has not complied with the documentation requirement, the requirement shall be extended for an additional six (6) months from the date of the lack of compliance with the requirement. The

documentation may be extended an additional six months for each time the employee fails to provide the necessary documentation.

- 4.4 An employee may grieve allegations of misapplication of this procedure.

## **SECTION 5. CHRONIC CONDITIONS**

An employee shall be allowed to use sick leave for time spent on Family Medical Leave (FMLA). The employee and the Employer shall comply with the dictates of the FMLA when such leave is requested. Employees and/or dependent as defined in Section 2.1.(b) who suffer from chronic or recurring illnesses or disabling conditions that constitute Family Medical Leave Act shall not be required to provide documentation for each absence, provided that a general certification has been previously provided. Such absences shall not be used as the basis for a documentation requirement described in Section 4.2. Unless the employee (and/or dependent) has a condition identified as a permanent disabling condition, the Employer may require documentation from a health care provider in accordance with the FMLA.

## **SECTION 6. ACCEPTABLE DOCUMENTATION**

- 6.1 When an employee is required to provide evidence necessary to establish that the employee is entitled to use sick leave under the terms of this agreement, acceptable documentation shall consist of the following:
- 6.1.1 A general certificate from a health care provider that the employee (or member of the employee's immediate family) visited the office and/or the employee was unavailable for duty for the reasons specified in Section 2 on the day or dates of absence. For absences of four (4) hours or less, at the employee's option, he or she may submit a copy of the universal health insurance claim form or similar document from the health care provider's office showing the name of the provider, the date of treatment and address and telephone number of the provider.
  - 6.1.2 An employee who works less than his/her full work day due to having to provide care to the employee's child or member of his/her immediate family shall not be required to provide certification from an acceptable health care provider unless management has specific evidence that the employee is using sick leave for a purpose other than described in Section 2 of this article.

## **SECTION 7. DISCIPLINARY ACTIONS**

The Employer may take appropriate disciplinary action against an employee for using sick leave for purposes other than described in this Agreement; for failing to properly notify the Employer of the use of sick leave; or for failure to provide appropriate documentation when properly required to do so.

The Employer may not penalize an employee with regard to scheduling, overtime eligibility, performance evaluations or other right or benefit for sick leave usage solely for being subject to documentation requirement. The procedure described in this Article, and disciplinary procedures, shall be the sole procedures available to address issues related to sick leave use and misuse. The misuse of sick leave may be addressed through disciplinary procedures and performance evaluations.

## **ARTICLE 16**

### **SHARED LEAVE**

**SECTION 1.** Each Employee in a regular position may be eligible to receive from, or donate to any other State Employee, shared leave as provided in this article in accordance with K.A.R. 1-9-23. Shared leave may be granted to an Employee in the appropriate Unit if the Employee or a family member as defined in Article 15 of this agreement is experiencing a serious, extreme or life-threatening illness, injury, impairment or physical or mental condition which has caused, or is likely to cause, the Employee to take leave without pay or terminate employment; and the illness, injury, impairment or condition keeps the Employee from performing regular work duties.

**SECTION 2.** To be eligible to receive shared leave, an Employee must have exhausted all paid leave available for use including vacation leave, sick leave, discretionary day, and all compensatory time credits, and have six months of continuous service. An Employee shall be eligible to donate vacation leave or sick leave to another Employee if the donation of vacation leave does not cause the accumulated leave balances of the donating Employee to be less than 80 hours for vacation leave and not less than 480 hours of sick leave. If the employee is retiring from state service and receiving compensation for sick leave upon retirement, the donated sick leave consists only of the accumulated sick leave in excess of the applicable minimum accumulation amount required for eligibility for a sick leave payout in accordance with K.S.A. 75-5517, and amendments thereto.

**SECTION 3.** When requesting shared leave the Employee shall be required to provide a physician's statement or other medical evidence necessary to establish that the illness, injury, impairment or physical or mental condition of the Employee or family member is serious, extreme, or life threatening, and keeps the Employee from performing regular duties. If such evidence is not provided, the employer may deny or terminate the shared leave. The Employer may deny shared leave if it is determined by the Employer that the requesting Employee has a history of leave abuse. Any employee receiving worker's compensation or who has submitted an application to the Division of Workers Compensation for the illness, injury, impairment or physical or mental condition that is the basis of the shared leave request shall not be eligible to receive shared leave. All requests for shared leave from eligible Employees must be submitted by the Employer to the statewide shared leave committee for review and approval or denial.

**SECTION 4.** No Employee shall be coerced, threatened, intimidated, or financially induced into donating leave for purposes of the shared leave program.

**SECTION 5.** Shared leave may be used only for the duration of the condition for which it was approved and collected. When an Employee is granted shared leave due to his or her illness or injury, the maximum number of hours of shared leave that may be used by an Employee shall

be the total hours that the Employee would regularly be scheduled to work during a six-month period. No employee shall be eligible to use shared leave after meeting the eligibility requirements for disability benefits under the Kansas Public Employees Retirement System or the federal Social Security laws. Employees shall use shared leave in accordance with their regular work schedules. Shared leave may be applied retroactively for a maximum of two (2) pay periods preceding the date the employee signed the shared leave request form.

**SECTION 6.** The Employee shall no longer be eligible to receive shared leave for the particular occurrence if the illness, injury, impairment or condition improves so that it is no longer serious, or extreme, or life-threatening; if the recipient terminates or retires; if the recipient meets the eligibility requirements for disability benefits under the Kansas Public Employees Retirement System; or if the family member's illness, injury, impairment or physical or mental condition is no longer serious, extreme, or life threatening, and the Employee is no longer prevented from performing regular work duties; or the recipient returns to work and works the Employee's regular work schedule for at least 20 continuous working days.

**SECTION 7.** Any unused portion of the shared leave shall be prorated among all donating employees based on the original amount and type of donated leave and returned to those employees within two pay periods of the date on which it is determined that the employee receiving the donated leave is no longer eligible for shared leave, except that shared leave shall not be returned to donating employees in increments of less than one full hour or to any person who has left state service.

**SECTION 8.** Shared leave shall be paid according to the receiving employee's regular rate of pay by the receiving employee's agency. The rate of pay of the donating employee shall not be used in figuring the amount of shared leave the requesting employee receives. Shared leave shall be donated in full-hour increments.

**SECTION 9.** An appointing authority may approve an Employee's request for shared leave regardless of the determination of the shared leave committee if the appointing authority determines that such a decision would be in the best interests of the state.

## **ARTICLE 17**

### **JURY DUTY OR OTHER REQUIRED APPEARANCES**

#### **BEFORE COURT OR OTHER PUBLIC BODY**

#### **SECTION 1. JURY DUTY AND OTHER REQUIRED APPEARANCES BEFORE A COURT OR OTHER PUBLIC BODY**

- 1.1 Each employee in a regular position, shall be granted leave with pay by their appointing authority for required jury duty; or in order to comply with a subpoena as a witness before the civil service board, the Kansas commission on civil rights, the United States equal employment opportunity commission, or a court or to provide testimony before an arbitrator or fact-finder.
- 1.2 Employees are not entitled to leave with pay in circumstances where the employee is called as a witness on the employee's own behalf in an action in which the employee is a party in interest.
- 1.3 Notwithstanding the granting of leave as provided in Section 1.1 leave with pay may also be granted to any employee for an appearance before a court, a legislative committee, or other public body, if the Employer considers the granting of leave with pay to be in the best interest of the state.
- 1.4 When an employee travels in a state vehicle for a required appearance before a court, or a legislative committee, or other public body, the employee shall turn over to the state any mileage expenses payments received.
- 1.5 Each employee who is granted leave and who receives pay or fees for a required appearance, other than jury duty, shall turn over to the state the pay or fees in excess of fifty dollars (\$50.00). The employee may retain any amount paid to the employee for expenses in traveling to and from the place of the jury duty or required appearance, except as provided in Section 1.4.

#### **SECTION 2. WORK RELATED COURT APPEARANCES ON A SCHEDULED DAY OFF**

- 2.1 Any employee who receives a work related notice to appear before a court should notify his or her supervisor immediately via email, telephone and or in person.
- 2.2 If the required court appearance is scheduled on the employee's regularly scheduled day off, the supervisor may request that another employee appear so as not to disrupt the employee's normal work schedule.
- 2.3 If the required court appearance is scheduled on the employee's regularly scheduled day off, and the supervisor has been notified, the supervisor may rearrange the employee's schedule in order to avoid overtime or compensatory time except as provided in Section 2.4 of this Article.
- 2.4 If the required court appearance is scheduled on the employee's regularly scheduled day off, and the supervisor has less than one (1) working day notice, the supervisor shall require the employee to appear on his or her day off, and the



employee shall be compensated for hours worked in the form of overtime or compensatory time.

- 2.5 If the required court appearance is scheduled on the employee's regularly scheduled day off, and the employee and supervisor are notified on the employee's day off, he or she will be called in and compensated for hours worked and travel time in accordance with I.M.P.P. 02-113 Employee Work Schedules and Compensation and K.A.R. 1-5-25 Call In and Call Back Pay.

## **ARTICLE 18**

### **JOB INJURY LEAVE AND LIMITED DUTY**

#### **SECTION 1. JOB INJURY LEAVE**

- 1.1 Any classified or unclassified employee who sustains a qualifying job injury, shall be eligible for job injury leave in accordance with this section. A qualifying job injury means an injury which renders the employee unable to perform regular job duties and which arises out of and in the course of employment with the state and was sustained as a result of a shooting, stabbing, or aggravated battery as defined in K.S.A. 21-3414, by another against the employee; was sustained as a result of a confrontation with a patient or client in a mental health or mental retardation facility or ward wherein the client either inflicts great bodily harm, causes disfigurement, or causes bodily harm with a deadly weapon or in any manner whereby great bodily harm, disfigurement, dismemberment, or death can be inflicted; or for a law enforcement officer was sustained while in fresh pursuit of a person or while operating under the provisions of K.S.A. 8-1506. Job injury leave shall not exceed six total months away from work. An employee that is unable to return to work shall be eligible to apply for compensation in accordance with the Kansas Workers Compensation Act.
- 1.2 While an employee is on an approved job injury leave pursuant to this section, the employing state agency shall continue to pay the employee's regular compensation. If the employee is awarded worker's compensation, the state agency shall pay the employee compensation in an amount, which together with worker's compensation pay, equals the regular pay of the employee. The employee shall not be required to use accrued sick leave or vacation leave. The employee shall continue to accrue sick and vacation leave as long as the employee remains in pay status. Nothing herein shall be construed as providing voluntary or gratuitous compensation payments in addition to temporary total disability compensation payments pursuant to the worker's compensation laws.
- 1.3 The appointing authority may require an employee on approved job injury leave pursuant to this section to return to full or limited duty if the employee is physically able to perform the duty as determined by a physician selected by the appointing authority or selected by a representative of the state self-insurance fund. However, any limited duty allowed shall not, in combination with time away from work on job injury leave, exceed the total six months allowed for job injury leave. If the employee remains unable to return to full duty, the appointing

authority shall explore all available options to accommodate the employee, including disability retirement benefits, before taking action to terminate the employee.

- 1.4 When an employee is on approved job injury leave pursuant to this section, the appointing authority may require the employee to be examined by a physician selected by the appointing authority to determine the capability of the employee to return to duty.
- 1.5 Employees on approved job injury leave shall be prohibited from being gainfully employed by any other employer.
- 1.6 In accordance with K.A.R. 1-9-22(g), the Employer may grant leave provided for by this section in other justifiable circumstances. The failure to extend leave in circumstances not provided for in this Section shall not be grievable.

## **SECTION 2. LIMITED DUTY**

The Employer and the Lodge agree that members of the Unit must be physically fit to properly perform their duties, and that various injuries and illnesses may preclude the fitness requirement. Therefore, the Employer and the Lodge agree that members of the Unit may request limited duty based on medical documentation when these conditions exist, and that the Employer may grant such request where practical and possible, and under conditions as outlined by the Employer in I.M.P.P. 02-106.

## **SECTION 3. FITNESS FOR DUTY**

Nothing in this article precludes the Employer from requiring Employees to comply with Fitness for Duty policies as circumstances warrant.

# **ARTICLE 19**

## **LEAVE WITHOUT PAY**

### **SECTION 1. LEAVE WITHOUT PAY**

- 1.1 An Employee may request and may be granted leave of absence without pay for any good and sufficient reason such as illness or disability including pregnancy, childbirth, miscarriage, abortion and recovery there from, adoption, initial placement of a foster child in the employee's home, or to care for a family member who has a serious health condition.
- 1.2 The provisions of this article shall be applied in a manner consistent with the Family and Medical Leave Act of 1993 and Department of Administration Personnel Bulletin No. 05-06, and any other applicable bulletins related to FMLA that may follow.
- 1.3 Leave of absence shall be administered as follows:

- 1.3.1 Employees with permanent status: leave of absence shall not exceed one (1) year.
- 1.3.2 Employees currently without permanent status as a result of promotion or reinstatement: leave without pay shall be granted under the same conditions as an employee with permanent status, if the employee had permanent status in the class in which the employee was employed immediately prior to the promotion or reinstatement.
- 1.4 Upon return to work at the expiration of an authorized leave without pay or upon notice by the employer that the leave without pay has been terminated, the employee shall be returned to a position in the same class as the position which the employee held at the time the leave was granted, or in another class in the same pay grade for which the employee meets the qualifications.
- 1.5 If the interests of the service make it necessary, the appointing authority may terminate a leave of absence without pay by giving written notice to the employee at least two weeks prior to the termination date. With the approval of the appointing authority, an employee may return from leave on an earlier date than originally scheduled.
- 1.6 Failure to return to work at the expiration of an authorized leave of absence, or upon notice by the appointing authority that a leave has been terminated, shall be deemed a resignation. Such resignations shall be reported by the appointing authority to the Director of Human Resources. Before determining that an employee has resigned, the appointing authority shall make a reasonable effort to contact the employee, the appointing authority shall provide the Director of Human Resources with resignation documentation and a summary of the steps that were taken to contact the employee.
- 1.7 As used in this regulation, the term "family member" shall have the meaning set out in K.A.R. 1-9-5(e)(2).

**ARTICLE 20**  
**TRANSFER OF LEAVE CREDITS**

**SECTION 1.** An Employee who transfers from one agency or department of the Employer to another shall have all accrued vacation and sick leave credits transferred to the new agency or department.

- 1.1 If the Employee has compensatory time credits at the time of the transfer the Employee shall be paid at the current hourly rate of pay for all such accumulation by the agency from which the transfer is made.
- 1.2 The provisions of this section also apply to an Employee who separates from one agency and is appointed to another agency or department on the following workday.

**ARTICLE 21**  
**LODGE LEAVE**

**SECTION 1.** Lodge representatives may be granted up to a total of one hundred and sixty (160) hours per calendar year, which may be taken intermittently, to conduct the following FOP activities:

- a) FOP-related seminars and educational programs;
- b) FOP Kansas State Lodge Board meetings;
- c) FOP Kansas State Lodge conferences and conventions; and,
- d) National FOP Board meetings or conferences and conventions.
- e) Attend legislative hearings to discuss issues related to collective bargaining and terms and conditions of employment of bargaining unit members.
- f) Attend Parole Regional meetings to discuss membership with Parole staff members.

Lodge leave is a pool of one hundred and sixty (160) hours meant to be shared annually among Lodge members for participation in Lodge activities. Once the one hundred and sixty (160) hours are exhausted, Lodge representatives may request to use vacation or compensatory time to conduct such activities. Requests to utilize Lodge Leave and/or vacation or compensatory time to participate in Lodge related business shall be submitted to the Employer at least ten (10) working days in advance of the intended use and will be considered for approval based on operational needs.

**SECTION 2.** Administrative leave with pay and benefits may be granted, to an employee designated by the FOP for the following reasons:

- a) To present grievances or appeals;
- b) Collective bargaining negotiations;
- c) Attend hearings, arbitrations or court appearances conducted in furtherance of this agreement.

## **ARTICLE 22**

### **PROFESSIONAL DEVELOPMENT**

**SECTION 1.** Employees in this Unit will be encouraged to enhance their job-related knowledge and skills through participation in various work related conferences, workshops, and seminars when funding is available. The Employee's participation must be approved by the immediate supervisor and the Appointing Authority. Time spent in the actual training activities and eligible travel time, consistent with the provisions of the Fair Labor Standards Act, will be considered compensable work time.

**SECTION 2.** Employees in this Unit may be directed by the Employer, or may request on their own initiative, to attend the work-related training activities. Employee requests to attend training activities shall be submitted to the supervisor and appointing authority for approval and shall include the following information:

- a) Training topic
- b) Date and time
- c) Training location
- d) Estimated travel time
- e) Approximate registration costs
- f) Other related costs
- g) Estimated travel expenses in accordance with applicable rules and regulations established by the Division of Accounts and Reports.

**SECTION 3.** Training opportunities that come to the attention of, and are endorsed by the Agency will be made available to all Unit members. Following such notice of training opportunities, Unit members will be given a reasonable period of time to express their interest in the training, and Unit members or other appropriate staff shall be selected, based upon qualifications and staff development considerations, provided adequate funding and staff coverage is available. All things being equal length of service of interested Officers shall prevail.

## ARTICLE 23

### PROMOTION AND VACANCY PROCEDURES

**SECTION 1.** With the exceptions noted below, the Employer agrees that all job openings (vacancies to be filled) in the appropriate Unit shall be posted not less than seven (7) days prior to the closing date of the announcement. Such notification shall include the date of the closing, the location where the vacancy exists and the person to be contacted. Notice of a job vacancy to be filled shall not be required, except as noted below, when filling a temporary position; when a position is filled by demotion or transfer; when a position is reallocated with an incumbent (which is not a vacancy); when filling a Governor's trainee position; or when the Director of the Division of Personnel Services determines that for good cause such notice is not necessary.

Subject to the provisions of K.A.R. 1-6-23, upon receiving an application for the vacant position from an individual who is eligible for a Kansas Employee preference, the appointing authority shall offer the position to the individual if the individual meets the minimum requirements for the position and the remaining requirements of this regulation.

Each veteran who meets the selection criteria for a vacant position shall be offered an interview for that vacancy when all of the following conditions are met:

- a) The vacancy is a regular position;
- b) A notice of vacancy, including a notice of an internal vacancy, has been posted for that position in accordance with the provisions of K.A.R. 1-6-2;
- c) No individuals who are eligible for the Kansas Employee preference program have applied for that vacancy.

The veterans' preference set forth above shall not apply to any veteran who was dismissed or did not resign in good standing from state service.

**SECTION 2.** In all openings for positions in this Unit for which a notification of job vacancy is required, promotional or transfer candidates that are permanent status Employees within this Unit of the Department of Corrections at the discretion of the appointing authority may be given preference, except as noted in Section 1 or subsection 2.d. of this article, for the appointment provided the internal candidate(s), in the judgment of the Director of Human Resources:

- a) Meets the Required Class Skills and Necessary Special Requirements for the job classification;
- b) Possesses the Preferred Selection Criteria involving specific position related skills, knowledge or performance capabilities needed in order to successfully perform the duties assigned to the position being filled;
- c) Has maintained a satisfactory work record and has not received a suspension or disciplinary demotion within the past year, and that:
- d) A veteran interviewed for the vacancy does NOT possess, in the judgment of the Employer, superior qualifications for the position.

**SECTION 3.** When it is determined that a vacant position is to be filled, the notice of the job vacancy shall contain the Required Class Skills and Necessary Special Requirements and may contain any Preferred Selection Criteria relating to specific position related skills, knowledge or performance capabilities in order to eliminate confusion or subjective judgments in the application and selection process to the greatest extent possible. When a vacant position is filled, unsuccessful candidates will upon request be provided with feedback on interviewing skills or other items that might increase chances for success.

**SECTION 4.** Any Employee applying for a vacancy as a transfer, voluntary demotion or promotion must do so in writing within the specified time frame and to the party indicated on the vacancy announcement. A transfer, as that term is used in this section, means a change by an Employee who meets the required selection criteria from one position to another position with a close similarity of duties, essentially the same basic qualifications, and the same pay grade. A demotion means the movement of an Employee from a position in one class to a position in another class having a lower pay grade, either on an involuntary basis for disciplinary purposes or on a volunteer basis. A promotion means a change of an Employee from a position in one class to a position in another class having a higher pay grade, by an Employee who meets the required selection criteria for promotion.

## **ARTICLE 24**

### **PAY PLAN**

**SECTION 1.** Employees in this Unit shall be compensated in accordance with the State of Kansas Civil Service Pay Plan. The administration of the plan shall be in accordance with appropriate Kansas Civil Service Rules and Regulations, applicable statutes and policy bulletins of the Division of Personnel Services.

**SECTION 2.** The Department of Corrections will support a wage increase for members of the bargaining unit if results of the pay survey conducted by the Department of Administration support the same. The FOP shall be allowed to provide input in the pay surveys conducted by the Department of Administration. The FOP's participation shall include but is not limited to providing statistical or empirical data to the Department of Administration or having FOP representation during any formal meeting to discuss the survey process or results.

## **ARTICLE 25**

### **DUTY OFFICER COMPENSATION**

**SECTION 1.** The term "duty officer" refers to an Employee of this Bargaining Unit designated to respond to calls after regularly scheduled work hours, weekends and holidays in accordance to departmental policy IMPP 14-147 – Parole Duty Officer. Duty officer hours begin after the employees regularly scheduled working hours, and may include weekends and holidays. Duty officers will be equipped with access to offender database information and contact information to be used when emergency situations arise.

- 1.1 Duty officer hours shall be compensated at a rate of \$1.00/hr. for every hour beyond regularly scheduled work hours they are designated as duty officer. This amount will be increased to \$1.25/hr. when the State of Kansas has completed revisions to the payroll system and can accommodate changes to payroll codes. Estimated date is July 1, 2010.
- 1.2 Work performed at the duty officers' homes, including responding to phone calls received after normal business hours, shall be documented in quarter hour increments, and duty officers shall be compensated for such time. Duty officers shall not receive the \$1.00 or \$1.25 per hour compensation provided herein for time spent responding to outside locations or for time spent performing work at their homes after normal business hours.
- 1.3 Call-back shall be paid in accordance with IMPP 02-113 – Employee Work Schedules and Compensation, which is written in accordance with K.A.R. 1-5-25.
- 1.4 Duty officer assignments will be made in accordance with IMPP 14-147.
- 1.5 Management retains the right to make modifications to duty officer assignments based on operational needs.

## **ARTICLE 26**

### **ACTING ASSIGNMENTS**

**SECTION 1.** In accordance with K.A.R. 1-6-29 an Employee in the Unit who has permanent status in one position may be assigned to perform the duties of another position, provided that the acting assignment be for a period of time greater than thirty (30) consecutive days but less than one (1) year, and the Employee meets the qualifications for the position. Documentation of the acting assignment shall be signed by the appointing authority and shall be placed in the Employee's personnel file.

**SECTION 2.** If the Employee is acting in a position assigned to a higher salary range than that of the Employee's normal position, the Employee shall be paid at a step on the higher range that gives the Employee an increase in pay. Such an increase shall not exceed the highest step possible if the Employee were being promoted to the position. The Employee may



receive salary step increases in accordance with applicable salary step increase regulations during an acting assignment.

**SECTION 3.** If the Employee is promoted to a position in which the Employee has served in an acting assignment, the salary shall remain at the amount paid during the acting assignment, or at a higher step range as agreed upon between the Employee and Employer. Any accumulated months shall count towards the next pay increase. The time served in the acting assignment may be credited towards the promotional probationary period.

## **ARTICLE 27**

### **HEALTH INSURANCE**

**SECTION 1.** Employees in this Unit may participate in the State of Kansas Group Health Plan as established by the State of Kansas.

## **ARTICLE 28**

### **RETIREMENT BENEFITS**

**SECTION 1.** Employees in this Unit will participate in the retirement program as provided by statute for their agency and job class and as administered by the Kansas Public Employees Retirement System (KPERS), which, as an umbrella organization also administers the Kansas Police and Firemen's Retirement System (KP&F).

**SECTION 2.** When authorized by the Kansas Legislature, Unit members presently in the KPERS may elect to transfer to KP&F. The parties to this Agreement recognize that if Legislative action does not provide for the transfer of Unit members to the KP&F, Unit members will continue to participate in KPERS until such time as agreement is reached between Unit Employees and the State.

**SECTION 3.** The Employer agrees to support gubernatorial and legislative consideration of participation in KP&F for unit members.

## ARTICLE 29

### LAYOFF AND RECALL

#### SECTION 1. LAYOFF AND RECALL

The Department of Corrections, with the approval of the Secretary of Administration, may lay off Employees in the classified service when the Employer deems it necessary by reason of shortage of funds or work, the return of an Employee on authorized leave, the abolition of a position or other material changes in duties or organization. The Employer may designate a geographic area, an organizational Unit and/or job classes within which Employees are to be subject to layoff. The Employer also may limit the layoff to full-time Employees or to Employees employed on less than a full-time basis. The Employer may also permit an Employee to bump into any class in which the Employee previously had permanent status. When a layoff is limited to full-time Employees or less than full-time Employees, any Employee with permanent status may exercise bumping rights into a position filled by any Employee with probationary status only within the group of Employees having the same full-time or less than full time status. Otherwise, any Employee with permanent status may exercise bumping rights into positions filled by probationary Employees anywhere within the agency, provided the permanent Employees meet the required selection criteria for the classes.

#### SECTION 2. LAYOFF SCORES

Layoff scores shall be computed by the Employer for each Employee in the agency in the class or classes of positions identified for layoff and for Employees in classes of positions that may be affected by the exercise of bumping rights. Layoff scores shall be computed according to the formula:  $A \times L$ , where:

A = average performance review rating of the Employee, as described below; and

L = the length of service, as defined in Article 10 of this agreement, expressed in months.

- 2.1 Except as otherwise authorized by this subsection, the performance evaluation ratings used in computing the layoff score of an Employee shall be the average of the most recent ratings for the Employee during the last five years, up to and including five ratings, if the Employee has as many as five ratings. However, a rating resulting from a special performance review that is given for a rating period ending within 90 calendar days of any notice of the layoff to the director shall not be counted. Performance reviews completed for rating periods ending on or after the date the appointing authority notifies the director in writing that a layoff is to occur shall not be considered in computing layoff scores; however, the appointing authority may designate a uniform earlier cutoff date to identify

which performance evaluation ratings shall be used in computing layoff scores.

- 2.2 Point values shall be assigned to performance reviews as follows: For performance reviews conducted on or before September 30, 2009, a rating of exceptional shall have a value of five; a rating of satisfactory, a value of three; and a rating of unsatisfactory, a value of zero. For performance reviews conducted on and after October 1, 2009, a rating of exceptional shall have a value of five; a rating of exceeds expectations shall have a value of four; a rating of meets expectations shall have a value of three; a rating of needs improvement shall have a value of two; and a rating of unsatisfactory shall have a value of zero.
- 2.3 In case of identical layoff scores, and if some, but not all, of the persons with the same score need to be laid off, preference among such persons shall be given to the employee with the least formal disciplinary actions within the year prior to the time layoff scores are calculated. If further ties remain preference among such persons shall be given to the employee with the least informal disciplinary actions within the year prior to the time layoff scores are calculated. If further ties remain, preference in retention shall be given to the person with the greatest length of service. If a tie still exists, the next preference shall be given to the person with the greatest length of service within the Department of Corrections.

### **SECTION 3. LAYOFF LIST**

The layoff list shall be based on the order of the layoff scores. The person with the lowest layoff score shall be laid off first. If more than one person is to be laid off, the persons to be laid off shall be selected on the basis of the lowest layoff scores.

- 3.1 Each Employee in a position identified for layoff or who may be affected by layoff, and each Employee who may be laid off through the exercise of layoff bumping rights shall be notified in writing by the Employer at least 30 days prior to the date of layoff.

### **SECTION 4. BUMPING RIGHTS**

Bumping shall occur within the layoff group identified in the agency's layoff notice, or agency-wide if the agency has not designated a layoff group. If the criteria set forth in subsections 4.1 and 4.2 of this article have been met, any Employee with permanent status, or any Employee considered permanent for layoff purposes only, who is scheduled for layoff shall only bump into a lower class in which the Employee previously had permanent status, unless the Employee's position is in a class which is part of a class series designated by the appointing authority in the agency's layoff notice. If such a class series is designated in the agency's layoff notice, then the Employee shall be permitted to bump into a lower class in the class series. Except as

provided below, in order for an Employee with permanent status to exercise bumping rights, the Employee shall meet the following criteria.

- 4.1 The Employee to be bumped shall have a lower layoff score than the person exercising the bumping right.
- 4.2 The Employee to be bumped shall have the lowest layoff score in the Employee's job class of anyone in a position not scheduled for layoff.
- 4.3 No permanent Employee shall be laid off if:
  - 4.3.1 Subject to the provisions of Section 1, there is a position filled by an Employee on original probation anywhere in the agency;
  - 4.3.2 The Employee with permanent status scheduled to be laid off is interested in the position; and
  - 4.3.3 The Employee with permanent status is eligible for transfer or demotion to the position.
- 4.4 Any Employee who is not scheduled for layoff, but whose position will be vacated during the layoff and bumping process, and who refuses to accept a transfer or demotion to another position, may request to be laid off voluntarily. Any Employee who has been granted a voluntary layoff shall have reemployment rights.

## **SECTION 5. REEMPLOYMENT**

At the layoff conference, each Employee shall be informed of his or her right to seek reemployment opportunities with the state, including placement assistance provided by the Department of Administration, Division of Personnel Services. Placement assistance shall be available to the affected Employee for up to three years after the effective date of the layoff.

- 5.1 Pursuant to the provisions of K.A.R. 1-6-23, each Employee who is laid off, or demoted or transferred in lieu of layoff, shall be placed in a reemployment pool until the Employee is reemployed or for three years from the date of the layoff, whichever occurs first. Individuals in the reemployment pool shall be given the opportunity to apply for vacancies that have been designated by agencies as open to Employees within that agency only.

## **SECTION 6. KANSAS EMPLOYEE PREFERENCE**

Subject to the provisions of K.A.R. 1-6-23, upon receiving an application for the vacant position from an individual who is eligible for a Kansas Employee preference, the appointing authority shall offer the position to the individual if the individual meets the minimum requirements for the position and the remaining requirements of this regulation. A laid off Employee is eligible for the Kansas Employee preference program for a period of up to one year.

## **ARTICLE 30**

### **SAFETY**

**SECTION 1.** While it is recognized that there are certain hazards associated with employment as a Parole Officer, every Employee has the right to expect to be employed in an environment that is free from safety and health hazards to the greatest extent possible. The Employer and the Lodge stand together in their commitment to ensure the safest working conditions possible for all Employees.

**SECTION 2.** There shall be created a Safety Committee. The purpose of this committee will be to propose solutions to safety and health hazards to the appropriate Deputy Secretary or designee.

**SECTION 3.** Lodge representation on the committee shall include two Parole Officers from each region of the agency, appointed by the FOP President. The Employer may appoint an equal number of additional committee members to represent other divisions.

**SECTION 4.** The committee shall meet twice each calendar year, with additional committee or subcommittee meetings as approved by the Deputy Secretary of Corrections for Field Services.

**SECTION 5.** The committee shall evaluate and/or investigate safety and health hazards or problems for the purpose of proposing solutions to the Deputy Secretary of Community and Field Services and the appropriate Regional Parole Director. The Committee shall receive written responses to their proposals from the official to which their proposal was directed. Issues of Employee safety and health hazards within the purview of this committee include but are not limited to building/office, work environment problems, communicable diseases, office and field safety issues, and job injuries. The attendance of Employees appointed to this committee shall be in pay status.

**SECTION 6.** The committee shall be formed by the Department within ninety (90) days from the date the Lodge submits their nominees.

**SECTION 7.** At the request of either the Lodge or the Department, other joint committees may be established.

7.1 If established, joint committees shall consist of an equal number of Lodge and Department representatives. The Deputy Secretary of Community and Field Services shall appoint chairpersons of such committees.

7.2 Unless mutually agreed otherwise, committee meetings shall be held during normal work hours and shall occur at least twice each calendar

year, with additional committee or subcommittee meetings as approved by the Department.

- 7.3 The attendance of Employees appointed to these committees shall be in pay status.

## **ARTICLE 31**

### **TRAVEL AND MEAL REIMBURSEMENT**

**SECTION 1.** Employees in this Unit shall receive travel and meal reimbursement in accordance with applicable rules and regulations established by the Division of Accounts and Reports.

**SECTION 2.** For approved use of their privately owned vehicles, as approved by the Employee's immediate supervisor, Employees in this Unit shall receive private vehicle mileage reimbursement at the maximum rate established by the Division of Accounts and Reports for that category of privately owned vehicle used.

**SECTION 3.** Employees traveling in a state owned vehicle or a vehicle rented through a state approved agency are required to checkout a vehicle logbook which contains a gas credit card and a state credit card which may be used to cover vehicle expenses such as emergency service and/or repairs. Employees with travel plans which include toll roads may check out K-tags. Personal use of state credit cards or K-tags may result in disciplinary action up to and including termination.

Employees who frequently travel out of state may apply for a Business Travel Card (BTC) through the Business Travel Card Program. Information regarding the card may be found at [www.da.ks.gov/ar/genacct/Audit/TCFfaq.htm](http://www.da.ks.gov/ar/genacct/Audit/TCFfaq.htm).

## **ARTICLE 32**

### **GRIEVANCE PROCEDURE**

**SECTION 1: DEFINITION.** For purposes of this Article, a grievance shall be defined as any dispute regarding the application or interpretation of this agreement. Disputes or dissatisfaction regarding any formal disciplinary action taken against an individual bargaining unit member shall follow the process as outlined in Article 9, Discipline. All grievances as defined herein shall be processed through the procedure outline below. An impasse in any negotiations for any Memorandum of Understanding shall not constitute a grievance. The parties shall make sincere and determined efforts to settle meritorious grievances at the voluntary steps of the grievance procedure and to keep the procedure free from unmeritorious grievances.

## SECTION 2: GRIEVANCE PROCEDURE.

- 2.1 All written grievances shall be routed through the Human Resources Manager, who will ensure that the grievance is appropriately documented and routed to the appropriate responding party at each step of the grievance process. Written grievances must specify a requested remedy and the reason any proposed remedy is being rejected.
- 2.2 At any step in the grievance procedure, if any party believes that an extension of the time limit for action is required, the party may request an extension of the time limit by written memorandum to the Human Resources Manager.

**Step 1:** The matter shall first be taken up between the individual grievant and the supervisor involved. A Lodge representative may be present during any step of the grievance procedure. If the grievance is not resolved orally, it must be submitted in writing to the Human Resource Manager for processing and presentation to the aggrieved bargaining unit member's supervisor within fourteen (14) business days after the occurrence giving rise to the grievance or after becoming known to the Lodge or it shall be considered resolved. The supervisor shall reply in writing to the grievance, with copies to the Lodge and the Grievant, within fourteen (14) business days of receipt of the written grievance or the grievance may be advanced by the grievant to Step 2.

**Step 2:** If the matter cannot be settled under Step 1, the matter will be presented in writing by the grievant to the Human Resource Manager for processing and presentation to the Regional Director or his/her designee. The Regional Director shall respond, in writing, within fifteen (15) business days of receipt of the grievance. If the Regional Director fails to respond within the fifteen (15) day time period, the grievance may be advanced to Step 3. If the matter is resolved under Step 1 or 2, the settlement will be binding upon all parties. Any resolution made under Steps 1 or 2 shall not be precedent setting for purposes of future grievances.

**Step 3:** If the matter cannot be settled under Steps 1 and 2, the matter will be presented in writing by the grievant to the Human Resource Manager for processing and presentation to the Deputy Secretary of Community and Field Services. The Deputy Secretary of Community and Field Services shall respond, in writing, within fifteen (15) business days of receipt of the grievance. If the Deputy Secretary fails to respond within the fifteen (15) day time period, the grievance may be advanced to Step 4. If the matter is adjusted under Step 1, 2, or 3, the settlement will be binding upon all parties. Any resolution made under Steps 1, 2, or 3 shall not be precedent setting for purposes of future grievances.

**Step 4:** If the matter is not resolved in the process outlined above the matter shall be referred in writing by the grievant to the Secretary of Corrections through the Human Resource Manager for determination. The Secretary of Corrections

shall render a decision in writing within fifteen (15) business days subsequent to the date the grievance was received by the Secretary of Corrections. If a dispute remains after the Secretary of Corrections renders his decision, the matter shall be submitted to arbitration as outlined below.

**Step 5:** In cases involving the interpretation of this agreement arbitration may be requested by the Employer or the Lodge as outlined in Section 3.

### **SECTION 3. ARBITRATION**

- 3.1 Notice in writing of intent to arbitrate shall be delivered by the party seeking arbitration to the opposing party within fifteen (15) calendar days of receipt of the Director's written response as outline in Step 2 above. The notice shall set forth the articles or sections of this Memorandum which are claimed to require modification or reversal of the decision previously made. If notice of intent to arbitrate is not delivered within fifteen (15) calendar days, the grievance shall be deemed abandoned.
- 3.2 Within twenty-one (21) calendar days after the above notice is delivered, the parties will mutually agree upon an arbitrator or jointly obtain a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS). After receipt of the panel, the parties will alternately and independently strike unacceptable arbitrators from a list with the last remaining arbitrator being selected. The process of selecting an arbitrator shall be accomplished within fifteen (15) calendar days after the receipt of the panel from FMCS. The deadline to select an arbitrator may be extended by mutual agreement of the parties.
- 3.3 Employees appearing as witness for either the Employer or the Lodge shall be paid for the time spent in attending an arbitration proceeding.
- 3.4 The jurisdiction and authority of the arbitrator shall be bound by the following:
  - 3.4.1 The arbitrator shall have the authority to determine the procedural rules of arbitration, and shall have the ability to make such orders as are necessary to enable him to act effectively. He shall observe the rules of evidence.
  - 3.4.2 The arbitrator shall have no power to add to, subtract from or modify any of the terms of this Memorandum.
  - 3.4.3 In the resolution of disputes between the parties of this Memorandum, the arbitrator shall give no weight or consideration to any matter except the specific language of this Memorandum and the facts and evidence presented to him by the parties in the presence of each other.



- 3.4.4 The arbitrator shall have no authority to usurp, subtract from, modify or exercise any management right of the Employer.
- 3.5 The cost of the arbitrator shall be shared equally by the Employer and the Lodge.
- 3.6 The arbitrator's decision shall be in writing. The Secretary of Corrections may request review of the decision by the Governor within thirty (30) days of the receipt of the decision. Such request for review shall fully explain the rationale for modification of the arbitrator's decision. In the event a request for review is filed with the Governor, the Lodge shall have opportunity to submit a statement of position to the Governor within fifteen (15) days of receipt of the request for review. The Governor may set aside the decision of the arbitrator within seventy-five (75) days of the request for review. The Governor's decision shall be final. If the Secretary of Corrections does not seek gubernatorial review in the time prescribed herein, the arbitrator's decision shall be final.
- 3.7 Should the Governor modify, alter or correct the arbitrator's decision, the Lodge may challenge such modification in a court of competent jurisdiction, pursuant to the Kansas Judicial Review Act.

#### **SECTION 4. RESTRAINT, COERCION, RETALIATION OR REPRISAL**

An employee who lodges a grievance shall be free from restraint, coercion, retaliation, or reprisal.

- 4.1 If an employee believes he or she is being subjected to restraint, coercion, retaliation, or reprisal in filing his or her grievance, or, as a result of filing a grievance, he or she may file a separate grievance directly to the Secretary of Corrections.
- 4.2 The filing of a grievance shall in no way reflect on an employee's good standing with the Department.

#### **SECTION 5. REPRESENTATION.**

An employee filing a grievance may select a FOP representative to represent or assist him or her at any step of the grievance procedure.

- 5.1 When the person selected is employed within the Department of Corrections, he or she shall be allowed time off during working hours to meet with the supervisor or other appropriate parties designated to respond at each applicable step of this grievance procedure.
- 5.2 Any cost resulting from the selection of a person to represent or assist an aggrieved employee shall be fully borne by the employee except for compensation for on-duty personnel who are serving as a representative.

- 5.3 At any step in the grievance procedure, the employee or other affected party may contact the Department's Director, KDOC Human Resources Division for information and/or assistance in processing the grievance.

## **ARTICLE 33**

### **LODGE STEWARD SYSTEM**

**SECTION 1.** The Lodge shall designate four (4) members of the Unit to serve as Stewards with two (2) assigned to the Northern Parole Region and two (2) assigned to the Southern Parole Region. The Employer agrees to recognize these Stewards as a means of promoting an effective labor-management relationship through the resolution of grievances at the lowest possible level of organization.

**SECTION 2.** The Lodge shall provide to the Director of Human Resources of the Department of Corrections and the Director of Labor Relations, Department of Administration and maintain on a current basis, a list of all Stewards for the appropriate Unit.

**SECTION 3.** Stewards will be permitted a reasonable period of time during working hours, without loss of pay or leave, for the purpose of discussing or investigating grievances.

- 3.1 Reasonable time for this purpose shall be interpreted to mean not more than a combined total of 48 hours per year for one or more stewards within each Parole region. Stewards shall provide assistance within any region of their employment.
- 3.2 Requests for additional time will be considered based on operational needs. Additional time may be granted by the Regional Parole Director for the purpose of discussing or investigating grievances.

**SECTION 4.** Upon request for assistance from an Employee in the Bargaining Unit, the Steward and the affected Employee may be excused from assigned work activities to discuss or investigate a grievance.

- 4.1 The Steward and the affected Employee must receive permission from their immediate supervisor(s) to leave their work area(s) and must report back promptly when the grievance discussion is completed.
- 4.2 When a Steward requests time to discuss a grievance, the Steward shall advise his or her supervisor of the Employee with whom the discussion will take place and where that discussion is planned.

- 4.3 The two Employees' supervisors shall then determine a convenient time when the Steward and the grievant can meet for a time not to exceed one (1) hour per discussion.

**SECTION 5.** Before attempting to act on any problem on behalf of an Employee, the Steward will ensure that the matter has been discussed by the grievant with his or her immediate supervisor.

**SECTION 6.** The paid or unpaid time off during work hours granted to Stewards and Employees requesting their assistance will not be unreasonably withheld. The Steward will not use this time to discuss matters connected with the internal Management and operation of the Lodge, the collection of dues or assessments, the solicitation of membership, the distribution of literature, to campaign for elective office in the Lodge or to solicit grievances or complaints.

#### **ARTICLE 34**

##### **SAVINGS CLAUSE**

Should any provision of this agreement be declared by the proper judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this agreement shall remain in force and effect for the duration of this agreement. Any provision of this agreement which is based upon any statute or regulation, whether federal or state, all or in part, either directly or indirectly, shall be construed to conform to the statute or regulation upon which the provision is based; such construction is to apply as the statute or regulation is presently worded or as the statute or regulation may be amended or changed. The Employer agrees to notify the Lodge of proposed changes in statutes or regulations that impact any provision of this agreement.

#### **ARTICLE 35**

##### **DURATION AND TERMINATION**

This agreement shall be effective from May 30, 2010 to May 27, 2012. The parties agree that they will enter into discussions in an attempt to arrive at a new agreement on or before March 31, 2012.

## ARTICLE 36

### COPIES OF AGREEMENT

After approval and ratification of the Memorandum of Agreement, the agreement shall be made available for viewing or printing on the Kansas Department of Administration Personnel web site: <http://www.da.ks.gov/ps/subject/labor/laborrelations/him>.

Additionally, the Kansas Department of Corrections shall provide printed copies of said agreement to all new Unit members after the approval and ratification of the agreement.

IN WITNESS WHEREOF the parties have set their hands this 17<sup>th</sup> day of June, 2010.

FOR THE STATE OF KANSAS



Duane Goossen, Secretary

Kansas Department of Administration



Roger Werholtz, Secretary

Kansas Department of Corrections

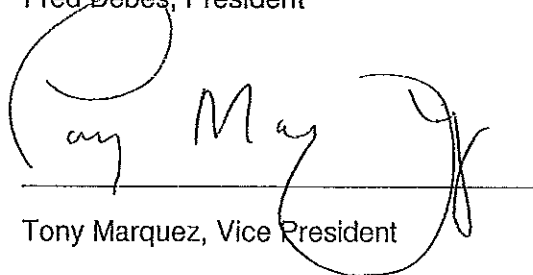


John Yeary, Director of Labor Relations

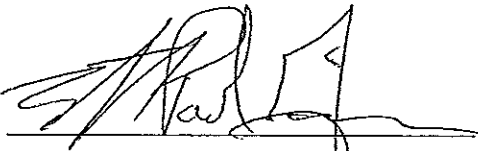
FOR FRATERNAL ORDER OF POLICE



Fred Debes, President



Tony Marquez, Vice President



Everett Paul Garcia, Secretary